

OGC HAS REVIEWED.

MEMORANDUM FOR MR. HOUSTON

13 April 1951

SUBJECT: Proposed Elimination of Legal Review of Standard Supply Contracts

1. You have requested my comments in connection with the memorandum dated 6 April 1951 from Chief of Procurement to the General Counsel, on the above subject. I have discussed this matter with [redacted] and believe that he concurs in the following comments:

a. Some amount of relaxation in the legal review of contracts by this office appears feasible. A general relaxation, however, would appear to be undesirable at this time inasmuch as much Government policy and procedure is in a developmental stage. I believe a continuing relationship between this office and Procurement can be of considerable mutual benefit.

b. As a suggestion, the degree of relaxation might be as follows:

(1) Any procurement for standard items executed on Form 33 after advertising need not be referred to the General Counsel's Office for approval, provided the amount thereof does not exceed \$25,000.00.

(3) Negotiated contracts pursuant to discretionary determinations and findings would continue to be submitted to the General Counsel's Office for approval.

(4) All contracts of a cost reimbursement nature; contracts necessitating financing arrangements with the contractor; contracts involving patent rights or royalties; and all contracts involving substantial changes in standard clauses would continue to be submitted to the General Counsel's Office.

(5) For reasons of security and other considerations not necessary to detail here, unvouchered contracts would continue to be submitted to the General Counsel's Office except as provided in subparagraph b.(2) above.

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2. As an initial relaxation of the present system, I believe a considerable amount of the traffic would be eliminated at the proper level without any increased exposure to legal problems.

3. The foregoing are specific and may afford a workable standard, give or take a little. However, certain general observations appear pertinent in connection with the referenced memorandum and are also submitted as being basic to any discussions:

a. Though contracts submitted to this office have not been found legally defective, there has been a not infrequent contribution to a revision of pertinent clauses from time to time, particularly in a formative stage of Government procurement. The principle that the absence of legal defects in the past assures a continuance in the future is not entirely valid, for which reason I comment upon the necessity for a continued relationship.

b. Although it is well and necessary to seek guidance from the ASPR and the implementing criteria and procedures, difficulties sometimes arise by a too slavish adherence to forms without reference to the flexibility necessitated by unconventional circumstances. In this respect, I believe our office has a specific obligation and can be of service.

c. For clarification purposes only, contracts are retained in the General Counsel's Office on an average of one day, and usually less. The "lag" arises from the geographical remoteness of the offices involved. This element can be somewhat neutralized by having the contracts approved in our other office. I do not believe, however, this point is overly important, for ordinarily contracting or procurement officers are not in the habit of consuming unnecessary time by personally carrying contracts from one office to the other. There is always some danger in granting a blank check to be valid in perpetuity. The grant of legal approval as requested or as recommended above should envision a mutual review at stated periods. Lastly, it should be abundantly clear that the use of the approved form will be consistent with the items and that the standard form will not deteriorate to an "escape device."



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cc: ✓ Subject  
Chrono